

## EXHIBIT D

# Excerpts From Defendant Sandra Forrest's Deposition

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

	)	
JAMES H. FISCHER,	)	Case No.
	)	CV 14-1304
Plaintiff,	)	CV 14-1307
	)	
v.	)	
	)	
STEPHEN T. FORREST, JR.,	)	
SANDRA F. FORREST, SHANE R.	)	
GEBAUER and BRUSHY MOUNTAIN	)	
BEE FARM, INC.,	)	
	)	
Defendants.	)	
	)	

DEPOSITION  
OF  
SANDRA F. FORREST

Taken at:

Your Office  
15720 Brixham Hill Avenue, Suite 300  
Charlotte, North Carolina

On Friday, February 10, 2017

REPORTER: CHRISTINE A. TAYLOR, RPR  
Notary Public

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A P P E A R I N G

For the Plaintiff: Oscar Michelen, Esq.  
(via Skype) Cuomo, LLC  
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For the Defendants: Seth L. Hudson, Esq.  
Clements Bernard Walker, PLLC  
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Suite 350  
Charlotte, North Carolina 28211  
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Also Present: Stephen Forrest, Jr.

\* \* \* \* \*

I N D E X

EXAMINATION BY MR. MICHELEN

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E X H I B I T S

(No exhibits were identified.)

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1 Pursuant to Notice in the aforementioned matter  
2 and in accordance with the Federal Rules of Civil  
3 Procedure, this deposition of SANDRA F. FORREST was taken  
4 by plaintiff beginning at 11:06 a.m. on February 10, 2017  
5 before CHRISTINE A. TAYLOR, Registered Professional  
6 Reporter and Notary Public.

7 SANDRA F. FORREST, called as a witness and upon  
8 first being duly sworn, testified as follows:

9 EXAMINATION BY MR. MICHELEN

10 Q. Good morning, Mrs. Forrest.

11 A. Good morning.

12 Q. My name is Oscar Michelen. As you heard, I represent  
13 Jim Fischer in this lawsuit. Now, am I correct that  
14 you were in the room for your husband's deposition;  
15 correct?

16 A. Yes.

17 Q. So it's going to go in a similar fashion, probably  
18 less questions. But, in any event, please wait until  
19 my question is completed before you begin your answer.  
20 If you need to take a break, you let us know. If you  
21 don't understand the question, I'll read it back to  
22 you or have the reporter read it back to you; is that  
23 all right?

24 A. That's fine.

25 Q. Please keep your voice up as well, so we can hear you

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1 loud and clear.

2 A. Okay.

3 Q. And you understand that the answers to these questions  
4 are the same as if you were giving them in a trial in  
5 front of a judge or a jury?

6 A. I do.

7 Q. Now, have you ever been deposed before, Mrs. Forrest,  
8 ever given a deposition before?

9 A. No.

10 Q. So, again, if you ever need a break at any time, as  
11 long as there's no open question, you just let us know  
12 and we'll give you as many breaks as you need, even to  
13 speak to Mr. Hudson. Okay?

14 A. Okay.

15 Q. Now, prior to coming to the deposition today, did you  
16 review any documents?

17 A. No, not really.

18 Q. And when for the first time did you learn that you  
19 were subject of a lawsuit by Mr. Fischer?

20 A. I don't really know the exact date, you know, it was a  
21 year or so ago, I guess. I don't -- I don't know. I  
22 don't have an exact date.

23 Q. Now, are you presently employed?

24 A. No.

25 Q. And when was the last time that you were employed?

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1 A. Well, I had started reducing my duties and moving out  
2 of the business about a year-and-a-half or two years  
3 before we sold it. So --

4 Q. So somewhere around 2012?

5 A. Yes. I was reducing my duties by then, so yes.

6 Q. So let's go back to, let's say, the four years before  
7 then, from let's say '08 to 2012. What was your  
8 general responsibilities -- withdrawn. Were you  
9 employed by Brushy Mountain Bee Farm, Inc. at that  
10 time?

11 A. Yes. My general duties --

12 Q. And what were your -- yes.

13 A. I had worked on the catalog for a couple of years  
14 before Shane came. After Shane came, he started  
15 taking over that. So I had that responsibility. I  
16 answered the phone. I was the office manager. I took  
17 minutes at our weekly meetings. And I also --

18 Q. Were you an officer of the company?

19 A. Yes, uh-huh.

20 Q. What was your title?

21 A. What was my title? I don't remember.

22 Q. Okay. But you had a title?

23 A. I had a title of something, but I'm not sure what it  
24 was.

25 Q. Okay. Now, let's go to the preparation of the

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1 catalog. Prior to the time that your company had a  
2 website, okay, was part of your role the preparation  
3 of that catalog?

4 A. Yes.

5 Q. And you heard me ask Mr. Forrest this, so I'll ask  
6 you. There was a number of products from other  
7 companies that were listed for sale in the catalog;  
8 correct?

9 A. Yes.

10 Q. Now, would you or your husband or something else draft  
11 the content to describe those products or would you  
12 receive it from the supplier or something else?

13 A. We would read what the supplier had to say and then we  
14 would write it up in a way that we thought would be  
15 best to describe the product to our customers.

16 Q. Now, in addition to Midstates, do you recall any other  
17 printer that you used at that time?

18 A. No, I don't.

19 Q. And would you and your husband review the content of  
20 the catalog each year and make whatever changes you  
21 thought were appropriate each year?

22 A. We did, yes.

23 Q. And that, like we heard earlier, would have included a  
24 different cover every year; correct?

25 A. Yes.

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1 Q. And new products would be added?

2 A. And some deleted.

3 Q. And some discontinued; correct?

4 A. Right.

5 Q. And there might be some price changes as well year to  
6 year?

7 A. Uh-huh. That's correct.

8 Q. Now, let's talk specifically about Fischer's  
9 Bee-Quick. Do you recall when your -- the company  
10 first started carrying Fischer's Bee-Quick?

11 A. I don't recall a date, no.

12 Q. Do you recall how many years you carried it?

13 A. No, not really.

14 Q. Did you interact directly with Mr. Fischer in any way  
15 prior to Brushy Mountain carrying this product?

16 A. No. We would see him at bee meetings. But, no, we  
17 didn't have, you know, any contact.

18 Q. I mean, did he approach you that you recall or you  
19 recall you reaching out to him to carry his product --

20 A. He approached us.

21 Q. -- or something else?

22 A. He approached us.

23 Q. And were you involved in making the decision to carry  
24 the product?

25 A. Yes.



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1 Q. Now, this product basically competed with another  
2 called Bee-Go; correct?

3 A. That's true, yes.

4 Q. And when you first started to carry the -- Fischer's  
5 Bee-Quick product, did Mr. Fischer provide you with  
6 any brochures, fliers, material to show how he had  
7 sold and marketed in his product beforehand?

8 MR. HUDSON: You cut up there, Oscar.

9 Q. Before you first started carrying Fischer's Bee-Quick  
10 in your catalog, did Mr. Fischer provide you with any  
11 brochures or fliers -- or distribute Bee-Quick?

12 A. He provided brochures as a table display when we set  
13 up the Bee-Quick at shows.

14 Q. But I meant before, in other words, now you're going  
15 to carry his product in the catalog. Did he ever say  
16 to you, hey, here's how I describe it so you could use  
17 that language for your catalog?

18 A. No. He may have given us some points of sale, but I  
19 wrote the description as I did with 95 percent of the  
20 products in our catalog.

21 Q. So you wrote the phrase, "Are you tired of your spouse  
22 making you sleep in the garage"?

23 A. Yes.

24 Q. And you wrote the phrase, "Are you tired of using a  
25 hazardous product on the bees you love"?

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1 A. I think so. I'm not sure about that one. But I'm  
2 definitely sure about the husband thing because I  
3 discussed that with many women at the bee shows.

4 Q. When you mean many women, you mean you discussed the  
5 problems with Bee-Go?

6 A. Right.

7 Q. And, by the way, if I told you the first year you  
8 started carrying Bee-Quick in your catalog was 2002,  
9 would that sound about right?

10 A. I didn't know we had sold it that long, but, you know,  
11 time flies by, so I don't know.

12 Q. Okay. What about the phrase "Fischer's Bee-Quick is a  
13 safe, gentle, and pleasant way to harvest your honey,"  
14 is that your authorship?

15 A. That's kind of general, so I don't -- I don't  
16 really -- I don't know.

17 Q. Well, I mean, did you write it all -- I would imagine  
18 you wrote the content all at once, right, it wasn't in  
19 various pieces?

20 A. Well, no, but I -- so, I guess I did. But I don't --  
21 I remember the phrase about the other thing because,  
22 like I said, because of the conversations I had with  
23 customers. The other is just kind of a general thing  
24 about the product. So --

25 Q. So you don't have an independent recollection of

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1 writing it?

2 A. I feel like I probably did, but I -- you know, I can't  
3 say.

4 Q. Now, was part of your duties also keeping track of the  
5 customer mailing lists?

6 A. We reviewed the list at first when we first -- before  
7 we got too many customers, what we would do in the  
8 office is we would go through the list and we would  
9 mark duplicates and we would also mark people that had  
10 fallen off the list. After a time, the mailing  
11 company, Midstates Printing at the time that I was  
12 there, would run the list through, and we even sent  
13 the list off to have zip codes corrected through the  
14 post office. So we did numerous things working with  
15 the list.

16 Q. And in addition to the addresses that Midstates would  
17 send to, would Brushy Mountain also receive a certain  
18 number of catalogs for Brushy to distribute itself?

19 A. Yes.

20 Q. And how did Brushy distribute those?

21 A. We would have people that would come into our shop, we  
22 would give them a catalog if they needed to it. We  
23 had people call us on the phone from ads that we ran  
24 in different gardening magazines and we'd send out  
25 catalogs that way. We took catalogs to our -- the